

Order

Michigan Supreme Court
Lansing, Michigan

February 5, 2014

Robert P. Young, Jr.,
Chief Justice

147719

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 147719
COA: 307577
Macomb CC: 2009-001960-FH

LEONARD RICHARD OLEAR,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the August 19, 2013 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the order of the Court of Appeals, and we REMAND this case to the Macomb Circuit Court to consider: (1) whether *People v Portellos*, 298 Mich App 431 (2012), is intervening case law providing an exception to the law of the case with regard to *People v Olear*, unpublished opinion per curiam of the Court of Appeals issued April 21, 2011 (Docket No. 297155); and (2) whether the factors offered by the defendant at the resentencing hearing of July 10, 2013 provide a substantial and compelling reason for departure from the applicable sentencing guidelines range, independent of the reasons that were rejected by the Court of Appeals in *People v Olear*. In the event that the circuit court answers one or both propositions in the affirmative, it may proceed to resentencing.

We do not retain jurisdiction.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 5, 2014


Clerk